

MINUTES OF THE
MARICOPA ASSOCIATION OF GOVERNMENTS
BUILDING CODES COMMITTEE

September 16, 2009

Maricopa Association of Governments Office
Cholla Room
Phoenix, Arizona

COMMITTEE MEMBERS

*Michael Clack, Scottsdale, Chair

Ken Sowers, Avondale

Phil Marcotte, Buckeye

*Mike Tibbett, Carefree

*Mike Baxley, Cave Creek

A-Judy Hendrickson for Alex Banachowski,
Chandler

Mary Dickson, El Mirage

*Peter Johnson, Fountain Hills

*John Smith, Gila Bend

Robert Crum for Jo Rene DeVeau, Gila River
Indian Community

A-Ray Patten, Gilbert

Bryan Woodcox for Deborah Mazoyer,
Glendale

Bill King for Ed Kulik, Goodyear

*Chuck Ransom, Litchfield Park

Tom Ewers, Maricopa County

A-Sтивен Hether, Mesa

Bob Lee, Paradise Valley

*Dennis Marks, Peoria

Tom Wandrie, Phoenix

*Dean Wise, Queen Creek
Surprise

A-Michael Williams, Tempe

Mario Rochin, Tolleson

John Stigsell, Youngtown

*Rick DeStefano, Wickenburg

Rus Brock, Home Builders Association

OTHERS IN ATTENDANCE

Heidi Pahl, MAG

Ward Gilbert, Gilbert Plumbing

Kevin Haugen, Watco Manufacturing Co.

Jason Guillian, The Plumbing Co.

Tom McNeil, Bobier Sales

Jim Porter, PIR Sales

John Lee, PIR Sales

Dennis Correll, AZ PHCC

Gordon Medill, MGM Sales

Chris Stanfield, Benjamin Franklin Plumbing

*Those members neither present nor
represented by proxy.

A-Those members participating via
audioconference

V-Those members participating via
videoconference

1. Call to Order

Bryan Woodcox, Acting Chair, called to order the September 16, 2009 meeting of the MAG Building Codes Committee (BCC) at 2:00 p.m.

2. Introductions

Voting members Steven Hether, Michael Williams, Ray Patten, and proxy Judy Hendrickson attended via telephone conference call. All members introduced themselves.

3. August 19, 2009 Meeting Minutes

Rus Brock noted that he did not say what appears on page 3, second paragraph, first sentence. Bob Lee said that he said that sentence at the last meeting. It was moved by Ken Sowers, seconded by Phil Marcotte and unanimously recommended to approve the August 19, 2009 meeting minutes as amended.

4. Call to the Audience

No comments were made from the audience.

5. Comments From the Committee

Bob Lee reminded BCC that the Arizona Building Officials (AZBO) education institute will be held in October in Tucson.

6. Bathtub Overflow

Ward Gilbert from Gilbert Plumbing attended the meeting to discuss requirements of the International Plumbing Code and International Residential Code regarding bathtub overflow. He noted that this was mentioned at the last BCC meeting. He distributed a letter from TW Lewis. He noted that bathtub manufacturer representatives were in attendance at this meeting.

Ward Gilbert said there are no manufacturers that make a bathtub overflow. He said it is a code conflict. He noted that his company's attorney is involved in this issue. Mr. Gilbert said it is a civil rights violation. He said plumbers at his company will not commit fraud. He said this is a topic of discussion at the ICC code hearings in Baltimore next month.

Bob Lee said it does seem strange that they require a 1.5 inch overflow but they don't regulate the smaller opening to the 1.5 inch water hole. Water flow rates will not be accommodated by this small opening. Mr. Lee asked why bathtub manufacturers and engineers did not address this issue over the past seven years with the ICC. Bob Lee said he doesn't think BCC is in a position to overrule what the code requires.

Ward Gilbert said he asked that same question. The Phoenix metro area is relatively new to the I-codes and building officials in this region address it. He noted that this section of the code is basically ignored elsewhere in the country.

Bill King asked if the plumbing industry could manufacture something to resolve this issue. Ward Gilbert said yes the plumbing industry can manufacture a big hole or a scupper like used around a swimming pool, that would resolve this issue, but it is not practical.

Bob Lee explained that the problem is the misinterpretation of the word “overflow.” Mr. Lee said that if the overflow is caused from a large person stepping into the tub then the bathtub overflow works to prevent the water from overflowing the tub and going on the floor. Ward Gilbert said that is not true. Mr. Gilbert added there are no tests, protocols or documentation to prove that this type of overflow would not occur. He said that a code interpretation group addressed this with ICC who was surprised to learn that “bathtub overflow” was never properly addressed.

Rus Brock said he would like to hear input from manufacturers.

Bob Lee said if it used to be a trip lever housing and it does not do that anymore, than why do the manufacturers put anything there. Ward Gilbert said that the manufacturers never looked up this part of the code and continued to do business as usual.

Ward Gilbert said plumbing companies are being sued over bathtub overflows. He is concerned about the legal issues and financial penalty given to plumbers. Mr. Gilbert said that he now installs bathtubs without overflows. He noted that building inspectors needed to be educated about the fact that bathtub overflows are not necessary.

Rus Brock said that not all homes are required to be built to the IRC and so the IPC can be used in certain circumstances. Bob Lee replied yes in certain instances this is true.

Bryan Woodcox said it would be up to the jurisdiction as to how they were going to review that code and interpret it.

John Stigsell asked if the proposed text for the new 2009 IRC commentary is going to pass. Ray Patten said the 2009 commentary on the IRC would be corrected to reflect commentary from the code committee. John Stigsell said he emailed Larry Stump and he said this issue has come up in his class many times and he tells his students that an overflow is not required. He noted that it is a mistake that needs to be corrected.

Ken Sowers read section 405.7 of the code. He said if fixture has an overflow then it should be handled as such. Mr. Ward said manufacturers are punching a hole in the bathtub because they are told to do so, not because it prevents overflow.

Mario Rochin asked where the water goes in a tub with an overflow hole. Ward Gilbert explained the water goes over the trip lever housing down the back of the tub connecting to the pipe going out.

Bob Lee said advice from the town attorney is that the building official is legally responsible for following what the code states, regardless of why it is in the code. Ward Gilbert said if a city or town forces a plumber to install a tub with an overflow, the plumber is then committing fraud and that gives the plumber the right to sue the city under the US Constitution. He said if the cities could put in writing that they are willing to have a disclaimer that states they are willing to pay for any damages from a bathtub overflow then the plumber will install whatever tub the city wants.

Steve Hether asked for Ward Gilbert's solution to the problem. He asked why manufacturers have been so laissez-faire about this part of the code. He asked if there are suggested code amendments being proposed to ICC from the plumbing industry. Ward Gilbert said industry professionals are recommending that overflows are optional. Mr. Hether said the industry is responsible to ensure the code makes sense.

Gordon Medill, American Brass and Aluminum Foundry said the word "overflow" is a misnomer. He said a tub left unattended while filling will overflow, the current "overflow" only slows down the overflow. He said tubs are filled under pressure and drained under gravity with an inch and half pipe.

Jim Porter agreed with previous speakers and said the current inch and half overflow is and was never intended to prevent overflow.

John Lee presented flow calculations from the American Society of Plumbing Engineers (ASPE) data book.

Tom McNeal said there is a lot of history with this issue. He said this is not any one industry or any one code that is responsible for this mistake. He said this seems like it will be addressed in the near future.

Kevin Hogan clarified that there are 3 pieces of equipment: bathtub, bath waste, and incoming waterflow or spout, 3 separate pieces of equipment manufactured by 3 independent manufacturers. He said engineers do not know the flow rate of incoming water flow so they cannot make a drain to handle overflow. He noted that a bath drain trip lever style was invented so that a person did not have to put their hand to bottom of tub to drain water.

Bill King asked if any manufacturers had a warning about overflow. Kevin Hogan said he was not aware of any such warning and wondered which of the 3 manufacturers would put out this warning. He believes this issue can be resolved through rewriting codes.

Dennis Correll noted this has been an issue for many years. He said lavatory sinks have the same challenge.

Bob Lee said the good thing about lavatory sink is that they do not specifically require an overflow in the code. Mr. Lee remarked that there may be a way to say, outlet and overflow and address the issue, but he is not certain that this would work.

Ward Gilbert asked jurisdictions to request their city attorney to issue a ruling that protects city and plumbers on the bathtub overflow issue.

Bryan Woodcox thanked Ward Gilbert for his efforts and discussion at the meeting. Mr. Gilbert suggested another option where jurisdictions could approach city/town Councils to request an amendment to the code.

Tom Wandrie noted that the building official cannot enforce this code if they know that it doesn't work.

John Stigsell asked if bathtubs could be installed per the IPC. Bryan Woodcox said that would be a decision made by the local jurisdiction. Bill King replied that the city had a standard form where the building official could check box for a special request (e.g. modification of code). Tom Wandrie noted that a modification implies the same.

Ray Patten asked for copies of handouts. Heidi Pahl said she would put handouts on the MAG web site. He asked if it was possible for a disclaimer from plumbers on bathtub overflow.

7. Structural Engineering and Solar Residential Photovoltaic Applications

There was no representative present to discuss the application of Solar Photovoltaic systems on existing residential roofs. The question of whether structural engineering should be required was not addressed. Tom Ewers said industry professionals are working with each jurisdiction to develop a solution.

8. MAG Building Inspectors/Plans Examiners (BI/PE) Forum Update

MAG BCC did not have a recommendation for a new chair person for the BI/PE Forum. Ken Sowers asked if it would be possible to use the AZBO Code Review and Development Committee for discussing BI/PE items until a new Chair for BI/PE is appointed. Bob Lee said the code review and development committee workload is too much at this time, but after the code hearings it may be possible. He said he will ask this committee and provide feedback at the next BCC meeting.

9. Updated MAG Building Codes Committee Membership

Acting Chair Bryan Woodcox reminded members to keep their membership information current and to report any changes to Heidi Pahl.

Mr. Woodcox welcomed Robert Crum with Gila River Indian community to his first MAG BCC meeting.

10. Update Survey of Code Adoption

No updates were reported.

11. Topics for Future Agendas

Bob Lee suggested cancelling the October MAG BCC meeting because it conflicts with the AZBO Education Institute. The committee concurred.

Ken Sowers suggested solar photovoltaic engineering as a future agenda item.

Heidi Pahl announced that eTec is prepared to give an electric vehicle infrastructure update at a future MAG BCC meeting.

12. Adjournment

The meeting adjourned at 3:08 p.m.